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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Truth-in-Billing
and
Billing Format

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CC Docket No. 98-170

Petition for Temporary, Limited Waiver

UNITEL, Inc. ("UNITEL"),¹ by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.² Specifically, UNITEL seeks temporary waiver of the requirements of Section 64.2401(b) regarding description of charges (the "TIB Description Requirement")³ and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB

¹ Attachment A contains the declaration of Lawrence J. Sterrs, Vice President of UNITEL. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

² In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999) ("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

³ 47 C.F.R. § 64.2401(b) states that:

Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

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Inquiry Contact Requirement")⁴(collectively, the "TIB Requirements"). UNITEL seeks this waiver until April 1, 2000.

UNITEL, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.⁵ Moreover, UNITEL recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, UNITEL requests a waiver of the TIB Requirements until April 1, 2000.

Until the requested waiver expires, UNITEL will continue to work diligently on the software billing system changes in order to comply with the TIB Requirements. Moreover, even after the waiver expires, UNITEL's customer representatives will continue to provide assistance to customers with questions concerning charges from particular carriers and for particular

⁴ 47 C.F.R. § 64.2401(d) states that

Telephone bills must contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

⁵ See Public Notice, DA 99-1616, released August 13, 1999.

services. Accordingly, UNITEL respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

I. Background

UNITEL provides exchange and exchange access services to approximately 5,000 lines in Maine. UNITEL is a rural telephone company under the Communications Act of 1934, as amended. In July, 1999, after the release by the FCC of its TIB Order, UNITEL began addressing the various TIB requirements to identify what billing system changes would be required to ensure UNITEL's TIB compliance. Accordingly, UNITEL included these activities as one part of its Year 2000 issue checklist associated with all of its computer-based systems.

During this process, UNITEL was informed by its outside billing vendor in July that it would not be able to provide necessary software upgrades to address Year 2000 issues. Accordingly, UNITEL is in the process of installing a new accounting system, outsourcing its carrier access billing, and incorporating Year 2000 enhancements to other support systems (e.g., toll rating, service order and billing). Although TIB compliance efforts were undertaken, UNITEL will not be able to comply with the TIB Requirements by November 12, 1999.⁶

A. Compliance Issues with Respect to the TIB Inquiry Contact Requirement

The need for the temporary, limited waiver of the TIB Inquiry Contact Requirement arises in connection with UNITEL's billing for charges for casual calling and alternate service providers (collectively referred to as "AOS providers")(i.e., carriers other than the presubscribed

⁶ See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

"1+" carrier of the customer). UNITEL receives data from the AOS provider's clearinghouse. The bill section containing these calls may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle. The charges that the Petitioners receive are sorted by customer and by date and time of that customer's usage. While UNITEL's existing billing system software sorts these call records by AOS provider, the software is not capable of placing the AOS provider's toll free number on the bill.⁷ As a result, the software modifications underway must accommodate varying levels of screening and identification of an AOS provider as well as provide the contact number of the AOS provider. These demands will, in turn, affect the processing time associated with rendering the bill.

Although UNITEL is working on both acquiring the contact information from its clearinghouse and the software modifications required to update its billing system, testing will need to occur when these updates are completed in order to ensure TIB rule compliance. Accordingly, it will be technically infeasible for UNITEL to comply with the November 12, 1999 date by which the TIB Inquiry Contact Requirement is scheduled to go into effect. Consistent with the implementation of other TIB-required billing software changes, UNITEL submits that compliance with this TIB rule should be possible by April 1, 2000.

⁷ Although UNITEL typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Accordingly, UNITEL is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Moreover, in UNITEL's experience, customer inquiries regarding AOS provider charges are minimal.

B. Compliance Issues with Respect to the TIB Description Requirement

With respect to the TIB Description Requirement, UNITEL is also in the process of developing the software necessary to disaggregate the charges and the services that are included within the existing bill's charge for local service. Currently, charges for additional local features (e.g., custom calling features) are aggregated with the charge for UNITEL's dial tone service. Moreover, no description of these additional features is provided. Once the software upgrade is fully developed to comply with this TIB rule, UNITEL will then test the bills in an effort to ensure compliance with the FCC's standard that service descriptions must contain "brief, clear, non-misleading, plain language."⁸ Even in the absence of this additional bill detail, however, UNITEL notes that it has had minimal customer complaints regarding its charges for other local services.

As with TIB Inquiry Contact Requirement, UNITEL does not believe that it can complete the necessary software modifications and successfully test such software by November 12, 1999. UNITEL anticipates, however, that it can accomplish these tasks by April 1, 2000.

II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver

Based on these facts and circumstances, UNITEL respectfully submits that good cause exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, UNITEL has made diligent efforts to comply with the TIB Requirements effective November 12, 1999. However, UNITEL's inability to comply with this date are compounded by circumstances beyond its control, i.e., UNITEL's prior billing system

⁸ 47 C.F.R. § 64.2401(b).

vendor indicated that it would not be able to provide necessary software upgrades to address Year 2000 issues. These circumstances and UNITEL's need to address other Year 2000 issues⁹ have resulted in UNITEL being incapable of meeting the TIB Requirements by November 12, 1999. Moreover, even assuming the availability of the software upgrades, UNITEL would not be able to successfully test such upgrades by this date. UNITEL anticipates, however, that compliance with the TIB Requirements should be possible by April 1, 2000. Accordingly, for the reasons stated, good cause exists for this waiver.¹⁰

UNITEL also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.¹¹ The software changes required by UNITEL clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of

⁹ Accord USTA Petition at 4, 9, and 11.

¹⁰ "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

competitive advantage"¹² are not applicable here. UNITEL will continue to work toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that UNITEL is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of the UNITEL; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements in a manner consistent with the status of the overall TIB compliance efforts by UNITEL.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.¹³ Accordingly, the ability of UNITEL to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary enhancements of its billing system capability without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify charges and inquire about a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, UNITEL will continue to provide customer service assistance regarding billing inquiries and questions. UNITEL will also continue to provide its local telephone number on the bill in order to allow customers to contact it about AOS provider charges. When a customer questions an AOS provider charge, UNITEL

¹² Id. at para. 16.

¹³ See n. 6, supra.

will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested, while effecting the goals of these requirements in an alternative manner.

Finally, UNITEL notes that, in the absence of this limited waiver of the TIB Requirements, its ability to bill for isolated customer-originated traffic on behalf of AOS providers would be in jeopardy. Facing the risk of non-compliance with the TIB Inquiry Contact Requirement, UNITEL may be forced to consider terminating its billing relationship with the AOS providers. This, in turn, may increase the cost to the AOS provider of billing, thereby inhibiting the continued development of a competitive interexchange service marketplace.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, UNITEL's customer concerns over charges for either UNITEL's local services or for AOS provider have been minimal. Moreover, UNITEL anticipates that its experience will not change during the time that the requested waiver is in place.

III. Conclusion

Because UNITEL is technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until April 1, 2000 will ensure that UNITEL can implement and successfully test the billing system software upgrades required to implement the TIB Requirements in an efficient manner, while avoiding unnecessary expense or raising

additional Year 2000 compliance issues. At the same time, the consumer goals of these TIB rules will not be frustrated by a grant of this request. Rather, such goals will be furthered by UNITEL as it continues to provide customer assistance and responsiveness when questions are received regarding charges from particular carriers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, UNITEL requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(b) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

UNITEL, Inc.

By



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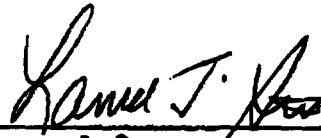
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November 2, 1999

**Declaration of Lawrence J. Sterrs
General Manager for
UNITEL, Inc.**

I, Lawrence J. Sterrs, Vice President of UNITEL, Inc. ("UNITEL"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding UNITEL is true and accurate to the best of my knowledge, information, and belief.


Date 11/2/99



Lawrence J. Sterrs
Vice President

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Unitel, Inc. was served on this 2nd day of November, 1999 by hand delivery to the following parties:



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